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Promotion and protection of human rights: human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms

Effective promotion of the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities

Note by the Secretary-General

The Secretary-General has the honour to transmit to the General Assembly the report of the Independent Expert on minority issues, Rita Izsák, in accordance with General Assembly resolution 66/166.

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Summary

The present report is submitted to the sixty-seventh session of the General Assembly in accordance with General Assembly resolution 66/166 of 19 December 2011. This is the first report to the Assembly prepared by the current mandate holder, Ms. Rita Izsák. The mandate of the Independent Expert was created by the Commission on Human Rights in its resolution 2005/79 of 21 April 2005 and renewed by the Human Rights Council in its resolution 7/6 of 26 March 2008 and subsequently in resolution 16/6 of 24 March 2011.

In 2012, the United Nations marks the twentieth anniversary of the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities. In all regions, minorities face challenges to the full enjoyment of their rights and further national measures are required to implement the Declaration in practice. The present report focuses on the value of institutional attention to minority issues within governmental organs, national human rights institutions and other relevant national bodies as a means of promoting minority rights and mainstream attention to minority issues across all relevant bodies. It considers essential elements of institutional attention to minority issues and provides an overview of some practices adopted by States and the functions, roles and activities of institutions in respect of promoting and protecting the rights of minorities. A key recommendation is that States consider institutional attention to minority rights as an essential component of their human rights, equality and non-discrimination obligations and as a means of implementing practically the Declaration.

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I. Introduction

1. The Human Rights Council has requested the Independent Expert, inter alia, to promote the implementation of the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities (hereinafter referred to as "the Declaration"),[1] including through consultations with Governments, taking into account existing international standards and national legislation concerning minorities.

2. The present report focuses on the value of institutional attention to minority issues within governmental bodies, national human rights institutions and other relevant national bodies, as well as the role of regional and international human and minority rights mechanisms in promoting implementation of the Declaration. It considers essential elements for consideration by Governments and other stakeholders, and the functions and activities inspired and undertaken by bodies, including ombudspersons, equality bodies, commissions, and advisory and consultative bodies providing institutional attention to minority issues. The Independent Expert does not promote a particular model or institutional arrangement, but emphasizes the value of dedicated attention to minority issues within the institutional framework considered appropriate by each State in view of national circumstances.

3. Examples are drawn from different regions and the work and official country visits of the mandate of the Independent Expert. On 21 June 2012, the Independent Expert sent a questionnaire to all United Nations Member States relating to their implementation of the Declaration in practice, including questions relating to the existence and functions of institutional bodies and arrangements relevant to minority issues. She thanks those States that have responded to date[2] and includes brief pieces of information derived from these responses where appropriate. Examples used are intended to reflect a range of national practices for ensuring institutional attention to minority issues and their use does not constitute an explicit or implicit endorsement of any institution or its performance.

4. On 22 and 23 May 2012, in Vienna, the Independent Expert participated in an expert seminar on "Enhancing the effectiveness of international, regional and national human rights mechanisms in protecting and promoting the rights of religious minorities", hosted by the Government of Austria, which provided valuable perspectives and information on initiatives designed to protect religious minorities relevant to this report. In addition, the annual sessions of the Forum on Minority Issues have provided information and national examples. The Independent Expert notes that the fifth session of the Forum will be held under the guidance of her mandate on 27 and 28 November 2012. The Forum will focus on "Implementing the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities: identifying positive practices and opportunities".

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[1] General Assembly resolution 47/135, annex.

[2] At the time of submission, responses had been received from the Governments of Argentina, Australia, Azerbaijan, Bosnia and Herzegovina, Croatia, Estonia, Georgia, Latvia, Lithuania, Montenegro, Portugal, Qatar, Seychelles and Slovenia.

II. Role and activities of national institutional mechanisms in promoting and protecting minority rights

5. 2012 marks the twentieth anniversary of the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities. In March 2012, the Secretary-General's Policy Committee stressed that the twentieth anniversary should be used to raise awareness and promote implementation of the Declaration and endorsed the establishment of the United Nations Network on Racial Discrimination and Minorities to give strengthened attention to minority issues within the United Nations system. In many countries, examples of constructive approaches, national legislation and institutional attention exist for the implementation of minority rights, equality and the accommodation of diverse groups within society which could be replicated. However, in all regions significant challenges remain for minority communities.

6. Disadvantaged minorities are often the poorest communities and face marginalization and discrimination in respect of their participation in economic life. They are underrepresented in political life and decision-making bodies and lack opportunities to raise their issues at all levels. Certain minority communities experience denial or deprivation of citizenship, with implications for enjoyment of their rights. They often experience poor educational access and outcomes and exclusion from labour markets. Disadvantaged minorities often live in the lowest-quality housing, and in remote or undeveloped regions, and their health statistics are poor relative to other population groups. They often face barriers to achieving access to justice and in some countries face the threat of violence and disproportionate impacts of conflict.

7. Factors including lack of recognition of minorities, discrimination, exclusion and lack of knowledge and awareness of minority issues result in inadequate inclusion of minority issues by national institutions, both governmental and independent, within their work and priorities. Human rights and socioeconomic development policies frequently do not fully take account of their unique circumstances, their rights and their needs and consequently fail to benefit minorities. However, in many States that recognize challenges involving minorities and the need for targeted and mainstream solutions, institutional arrangements have been established incorporating expertise on minority issues which initiate, implement and monitor efforts to promote and protect minority rights.

8. Different approaches to minority rights protection exist based on national circumstances and factors including historical, cultural and religious background and political systems. Some States provide territorial, political or cultural autonomy which facilitates minority participation in regional or local institutions and establish forms of local or minority self-government. Many States officially recognize minorities, adopt constitutional and legislative provisions, and acknowledge that special attention may be required to ensure the enjoyment of their rights in equality with others. Recognition of the existence of minorities remains a precondition for positive national measures and institutional arrangements for promoting minority rights effectively.

III. Normative framework

9. Article 27 of the International Covenant on Civil and Political Rights[3] requires that "(i)n those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practise their own religion, or to use their own language". The Declaration further elaborates the rights of minorities and the obligations upon States. Numerous provisions within the Declaration require positive measures in legislation, policy and programming to ensure the full and effective participation of minorities in public life. Their implementation may best be achieved through a national policy and institutional framework incorporating targeted attention to minority rights.

10. Article 1 (1) of the Declaration requires that "States shall protect the existence and the national or ethnic, cultural, religious and linguistic identity of minorities within their respective territories and shall encourage conditions for the promotion of that identity". Article 1 (2) requires that "States shall adopt appropriate legislative and other measures to achieve those ends". Article 2 (3) requires that minorities have the right to participate effectively in decisions on the national and, where appropriate, regional level concerning the minority to which they belong or the regions in which they live. Article 4 (2) requires that "States shall take measures to create favourable conditions to enable persons belonging to minorities to express their characteristics and to develop their culture, language, religion, traditions and customs". Article 5 (1) establishes that "(N)ational policies and programmes shall be planned and implemented with due regard for the legitimate interests of persons belonging to minorities".

11. The Committee on the Elimination of Racial Discrimination in its general recommendation No. XVII on the establishment of national institutions to facilitate implementation of the Convention (see A/48/18, chap. VIII.B), recommends that States parties to the International Convention on the Elimination of All Forms of Racial Discrimination[4] "establish national commissions or other appropriate bodies ... to serve, inter alia ... (a) to promote respect for the enjoyment of human rights without any discrimination; ... (b) to review government policy towards protection against racial discrimination; (c) to monitor legislative compliance with the provisions of the Convention; (d) to educate the public about the obligations of States under the Convention; (e) to assist in the preparation of reports to the Committee on the Elimination of Racial Discrimination".

12. In its general recommendation No. XXIX on article 1, paragraph 1, of the Convention (descent), relating to groups including caste-affected communities (see A/57/18, chap. XI.F), the Committee requests States to "(E)stablish statutory mechanisms, through the strengthening of existing institutions or the creation of specialized institutions, to promote respect for the equal human rights of members of descent-based communities". In its general recommendation No. XXVII on discrimination against Roma (see A/55/18, annex V.C), the Committee recommends numerous positive measures including the review and amendment of legislation, adoption and implementation of national strategies and programmes, establishment of effective remedies, and measures to ensure consultation, dialogue and

[3] See General Assembly resolution 2200 A (XXI), annex.

[4] United Nations, *Treaty Series*, vol. 660, No. 9464.

participation of Roma. Their scope implies coordinated, proactive attention to Roma populations by appropriate institutions.

13. Institutional attention to minority issues may result in positive measures targeted at minorities. In its general recommendation No. 32 on the meaning and scope of special measures in the International Convention on the Elimination of All Forms of Racial Discrimination (CERD/C/GC/32), the Committee, citing general recommendation No. XIV, states that "differentiation of treatment will not constitute discrimination if the criteria for such differentiation, judged against the objectives and purposes of the Convention, are legitimate". According to general recommendation No. 32:

> The term "non-discrimination" does not signify the necessity of uniform treatment when there are significant differences in situation between one person or group and another, or, in other words, if there is an objective and reasonable justification for differential treatment. To treat in an equal manner persons or groups whose situations are objectively different will constitute discrimination in effect, as will the unequal treatment of persons whose situations are objectively the same.

However, positive measures should be justified, timed and monitored.

IV. The importance and scope of institutional attention to minority issues

A. General considerations

14. Ensuring enjoyment of minority rights and equality in practice requires an understanding and appreciation of minority issues and problems facing minorities. Institutionalizing expertise on minority issues allows Governments and independent bodies to identify problems and their causes and to develop sustainable solutions that fulfil the rights of minorities and comply with State obligations. While non-discrimination measures are an essential tool, minority rights protection requires measures that go beyond non-discrimination. Dedicated institutional attention provides necessary impetus for proactive implementation of minority rights, including positive measures, consultative and participatory mechanisms and processes, and activities directed towards disadvantaged minorities, which are often lacking.

15. In States in which minority populations are significant, where inter-community relations are complex, where long-term challenges persist, or where ethnic or religious tensions or conflict exist or have previously occurred, institutional attention may be particularly appropriate. In the European context, for example, it is acknowledged that the Roma require dedicated national attention so as to promote their inclusion in all fields of life, address disproportionate poverty and improve living conditions and health indicators. Discrimination and exclusion are key factors contributing to their disadvantaged situation. Solutions must take account not only of their unique circumstances and target community challenges and the impact of discrimination against Roma, but also of the causes and manifestations of discrimination in the wider society.

16. Institutions mandated to address minority issues can increase minority rights awareness among minority communities and the wider society. They are valuable central sources of information on legislation, policies and programmes and acts that foster discrimination. They can provide advisory services on specific concerns, such as education, employment and housing, and facilitate consultations and debates in which minorities participate. A national institutional framework facilitates legislative and policy development and the design, implementation and monitoring of minority-related programmes. Affirmative action measures that address long-standing discrimination and inequality are often necessary and require institutional attention to specific minority issues or groups. Institutions can conduct studies and social surveys and gather and analyse disaggregated data so as to justify, implement and monitor such measures.

17. Minority rights institutions frequently have proactive mandates that include: reviewing and proposing domestic standards and providing expertise and information to legislation drafting and policymaking processes; monitoring laws and policies with respect to minority rights and recommending amendments or implementation measures; encouraging and coordinating programming on minority issues and strategies devised to address problems relating to minorities; promotion and education activities; developing good practice guides, information resources and reports; developing campaigns and outreach relating to minority rights; and forming a bridge between minority communities and public administration. Importantly, they should not act in isolation on minority issues but, should rather, actively promote mainstreaming of minority issues and cooperation across all relevant bodies.

18. Specialist bodies have a valuable educative role in developing and delivering teaching and training initiatives, which would include educating the general public through such activities as public debates, engagement with the media on minority issues and conducting campaigns and other awareness-raising initiatives. They may promote minority rights within the framework of human rights education initiatives through the development of curricula and provision of school teaching materials appropriate to diverse classrooms, reflecting ethnic and religious diversity, minority cultures and languages, and the histories and contributions of minorities. Dedicated bodies can provide training to staff of public bodies, including the police and judiciary, so as to enhance institutional awareness of minority rights and equality standards and promote the use of tools, resources and good practices relevant to minority rights.

19. Institutionalized expertise helps Governments to respond appropriately to challenges facing specific minority groups. In many countries, for example, linguistic minorities claim their rights, as established in the Declaration, to adequate opportunities for learning and receiving instruction in their mother tongue. Such rights require specialist knowledge of minority communities and their needs and pedagogic methodologies relevant to language education, including bilingual education models and their application. Institutional attention to the rights and needs of linguistic minorities must be a focus of both national policymaking bodies such as the ministry of education, and in municipal authorities responsible for implementing policy and programmes in practice. Specific minority needs may lead States to consider other policy and institutional options, including establishing and supporting minority schools.

20. The Independent Expert highlights the need for increased attention to the rights and security of religious minorities and interfaith dialogue, particularly in countries experiencing tensions and violent attacks against religious minorities. Anti-religious extremism and hate speech encourage discrimination and violence and increase the urgency for human rights mechanisms that address the issues of religious minorities. The Human Rights Council universal periodic review has produced nearly 400 recommendations concerning religious freedom and the rights of religious minorities. Establishing institutional mechanisms to promote interfaith dialogue helps build bridges between faith groups that may have become increasingly polarized and distrustful. The Organization of Islamic Cooperation (OIC) has stated that "it is becoming imperative for Governments to provide due political, social, economic and cultural space to minorities in their societies, including access to decision-making levels".[5]

21. The value of permanent institutionalized participatory and intercultural dialogue mechanisms is emphasized by the Independent Expert. Such mechanisms not only benefit minority communities, but are also essential for eliminating exclusionary practices and changing discriminatory perceptions in respect of minorities, which may exist in wider society and may be institutionalized. Addressing "institutional racism" remains a challenge in many States and requires activities to promote participation and dialogue focused not only on minorities, but on all sectors of society. Coordinated institutional approaches should engage minority institutions and associations, majority communities, and civil society, as key stakeholders and project partners. Institutional measures serve to mainstream minority issues and promote diversity and equality across all areas of public life and institutions.

22. The Forum on Minority Issues at its second session focused on effective political participation.[6] It recognized that it is frequently necessary to adopt positive institutional measures designed to enhance minority participation in decision-making bodies. It recommended parliamentary arrangements, proportional representation and other appropriate electoral systems-related measures that can increase opportunities for minorities to participate. Reserved or shared seats have proved useful in ensuring minority representation in elected bodies. Where minorities are geographically concentrated, forms of devolved power or territorial or political autonomy can facilitate minority participation in regional or local institutions. Political parties are key actors and should adopt measures aimed at engaging minority communities, addressing minority issues and ensuring minority representation. The Forum recommended a specific mechanism or institutional procedure to survey and monitor progress on minority participation.

23. In 2011, the Forum on Minority Issues highlighted the need for dedicated attention to guaranteeing the rights of minority women and girls,[7] who face unique challenges and multiple and intersecting forms of discrimination in such areas as access to education and may be vulnerable to violations, including sexual violence

[5] Statement made by Pakistan on behalf of OIC at a panel discussion at the Human Rights Council, held on 13 March 2012, to mark the twentieth anniversary of the Declaration.

[6] See http://www2.ohchr.org/english/bodies/hrcouncil/minority/documentation_2ndsession.htm.

[7] See the recommendations of the Forum on Minority Issues: guaranteeing the rights of minority women and girls, at its fourth session. Available from http://www2.ohchr.org/english/bodies/hrcouncil/minority/session4.htm.

or trafficking. Specialist units, focal points or consultative bodies within ministries or governmental institutions on women's issues can be a means of ensuring that their issues are adequately and appropriately addressed within institutional mandates. This may require specialist or minority staff sensitive to minority issues, and gender and cultural or religious sensitivities relating to women and girls. Along the same lines, the Forum has recommended that national human rights institutions consider specific mechanisms in their secretariats for addressing issues relevant to minority women and girls.

24. Children and young people belonging to minority groups may face unique challenges and vulnerability owing to issues including poverty and discrimination. Institutions whose work centres on children's and youth issues and education should ensure that their mandates and working practices, projects and programme initiatives are relevant and accessible to minorities. Innovative projects can benefit individual children and may provide venues and opportunities for interaction among young people from different communities, particularly when intercultural and integration perspectives are given attention. Governments may consider supporting specialist civil society youth initiatives. Institutions established to support young people, protect them from possible abuse or exploitation, and provide them with information should also ensure that their services reach and are accessible to those from minorities.

25. Institutional attention to minority rights can assist in international cooperation and prevent international tensions relating to the treatment of minorities. The existence of minorities in a State may have cross-border implications, in cases where, for example, they have a "kin" State or external religious ties. Minorities have the right to maintain peaceful contacts across frontiers. Owing to historical or geopolitical factors, the treatment of minorities may be sensitive. The Office of the High Commissioner on National Minorities (HCNM) of the Organization for Security and Cooperation in Europe has produced recommendations on national minorities in inter-State relations.[8] While protection of minorities is primarily the responsibility of the State of residence, States are encouraged to conclude bilateral treaties and arrangements, share information and concerns, pursue interests and ideas, and support minorities on the basis of friendly inter-State relations. States are recommended to use instruments, including advisory and consultative bodies such as minority councils or joint commissions, and establish mediation and arbitration mechanisms.

B. Data gathering and analysis

26. Data disaggregated along ethnic and religious lines and sex reveal inequalities and are a vital resource for informing policy and programming on minority issues. Data allow targets and objectives to be established based on identified concerns which may include education access and outcomes, labour-market activity, health and housing and provide justification for targeted programmes. National statistical bodies and other relevant government bodies should be mandated to collect disaggregated data as a good practice and develop internal expertise on minority issues, and utilize data collection and analysis methodologies relevant to ethnicity,

[8] *The Bolzano/Bozen Recommendations on National Minorities in Inter-State Relations* (The Hague, June 2008).

religion, language and identity. Most countries hold regular national censuses and relevant questions should be included that adhere to personal data protection standards. Specialist attention would allow appropriate indicators to be identified and utilized to assess the relative situation of minorities and the impact of programmes, as measured against established targets.

27. Statistics Canada conducts census and other statistical surveys and includes questions relating to origin, ethnicity, religion and language, thereby allowing comparative analysis of the socioeconomic situation of minorities compared with other population groups. Labour-market activity data revealed disproportionately high unemployment rates among black, Western Asian and Arab communities, for example. An Ethnic Diversity Survey provided insights into how ethnic backgrounds affect participation in social and economic life, a potential resource for programme development.[9] Where Government bodies are not mandated or permitted to collect disaggregated data, independent human rights and equality bodies should play a key role in compiling such information and should develop their own internal expertise.

C. Engaging civil society and non-governmental organizations

28. Non-governmental organizations are often the most active advocates for minority rights and implement concrete and grass-roots programmes. They provide information, expertise and expert services to national institutions and provide an essential information and communication bridge between national authorities and minority communities. They also fulfil important functions, including provision of social support activities conducted within communities and by trained members of minorities. Academic institutions frequently have specialist knowledge of minority issues and conduct essential research which provides Governments that are seeking to strengthen institutional expertise and design appropriate policy and programme measures, with a valuable resource.

29. Institutional engagement with non-governmental organizations brings expertise on minority issues and expands the capacity of national bodies through appropriate programme collaborations. National institutions may benefit from the studies, reports and contacts of non-governmental organizations within minority communities and the access and trust that some non-governmental organizations have secured at the community level. Non-governmental organizations and minority associations provide guidance based on their expert knowledge of specific groups and thematic concerns and are essential partners in consultation processes and the delivery of policy and programme initiatives. Further, governmental institutions and national human rights bodies working on minority issues provide a valuable focus for non-governmental organization advocacy initiatives, enabling them to lobby, build relationships and collaborate with national actors wielding policy influence.

30. Collaborations among civil society groups, ethnic or religious bodies or associations and national or local authorities can provide valuable venues and opportunities for dialogue and understanding between communities and among authorities and minorities. In Marseille, France, "Marseille Hope" is an example of

[9] See the report of the Independent Expert on minority issues on the mission to Canada (13 to 23 October 2009) (A/HRC/13/23/Add.2).

a positive initiative designed to create dialogue and help avert the tensions between faith groups that, once having emerged, can lead to violence. Jewish, Christian, Buddhist and Muslim leaders meet regularly with city authorities to share views and maintain positive relations among communities. Founded in 1989 in response to growing urban violence, it promotes inter-community understanding through activities, including interfaith symposiums.

31. Governments can be important sources of support and funding for non-governmental organizations. Even where Governments establish institutional attention to minority issues, they may consider providing institutionalized support to non-governmental organizations and community groups working with and on behalf of minorities, including in the context of specific services and projects. They should also assist in the establishment of, and provide support to, minority media that provide an essential service and information delivery mechanisms for minorities. However, service provision by non-governmental organizations should not be considered a viable substitute for dedicated Government attention to minority issues and Government-led provision of essential services and allocation of financial resources necessary to improve the living conditions and protect the rights of minorities.

D. The role of institutions in fulfilling international commitments

32. Expert national institutions can assist Governments in fulfilling international commitments, including reporting to United Nations treaty bodies, such as the Human Rights Committee, on minority rights under article 27 of the International Covenant on Civil and Political Rights, and the Committee on the Elimination of Racial Discrimination. States receive minority-related recommendations based on their consideration by treaty bodies, the universal periodic review, special procedures mandate holders and regional monitoring bodies.[10] Specialist institutions can lead efforts to implement recommendations nationally. They also provide a valuable focal point through which guidance, tools and technical cooperation initiatives relating to minority rights may be channelled to the national level. Independent national human rights institutions frequently provide critical analysis of government policy and practice and make recommendations based on their minority rights expertise, including to the United Nations system and regional bodies.

33. Institutional attention to minority issues can be key to achieving anti-racism objectives and in designing and implementing national strategies that ensure consultation with and participation of minorities from planning to evaluation. The 2001 World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance urged Governments to develop national action plans against racism and create "conditions for all to participate effectively in decision-making and realize civil, cultural, economic, political and social rights in all spheres of life on the basis of non-discrimination" (para. 99 of the Durban Programme of Action). Action plans provide motivation for activities across institutions and are an important engine for mobilizing attention to equality and minority rights. Their implementation is characterized by mainstreaming initiatives in which numerous

[10] Research conducted by the Independent Expert revealed some 833 recommendations to all States relevant to minority issues following the first round of State consideration under the universal periodic reviews.

bodies work together to achieve common goals. The challenges in planning and management across institutions require institutional leadership so as to ensure that all actors fulfil their responsibilities.

34. Specialist bodies or dedicated departments are beneficial to meeting group-specific goals. In 2011, member States of the European Union (EU) adopted a Framework for National Roma Integration Strategies, recognizing it as a major step towards achieving a more socially cohesive Europe. Member States agreed to prepare, update or develop by the end of 2011, national Roma inclusion strategies, or integrated sets of policy measures within their broader social inclusion policies for improving the situation of Roma. They reaffirmed that national efforts should focus on priority areas of education, employment, health care and housing so as to close the gaps between Roma and the general population.[11] States agreed to appoint a national contact point or use an already existing body to ensure effective monitoring of Roma inclusion strategies and measures and foster the exchange of good practices.

35. National and international actors responsible for developing policy and programmes to achieve the Millennium Development Goals should consider providing dedicated attention to the situation of minorities and projects targeted towards them. In the field of development, poverty alleviation and national strategies for achieving the Millennium Development Goals, the mandate of the Independent Expert has highlighted the need for attention to minorities within national action plans and strategies to ensure that disadvantaged minorities are not left behind or fail to benefit from Millennium Development Goal strategies owing to discrimination, exclusion or neglect.[12] A survey of Millennium Development Goal country reports and Poverty Reduction Strategy Papers highlighted the low level of attention to minorities even in countries with large and impoverished minority communities.[13]

36. Regional intergovernmental bodies can promote national attention to minority issues. The African Charter on Human and Peoples' Rights can be interpreted as containing provisions for protection of minorities; however, in African States attention to minority issues is relatively weak. The African Commission has a Working Group on Indigenous Populations and is encouraged to consider creating a similar body to promote national attention to minorities. The Intergovernmental Commission on Human Rights of the Association of Southeast Asian Nations (ASEAN) is drafting a human rights declaration; and the Organization of American States has a working group to prepare a draft inter-American convention against racism and all forms of discrimination and intolerance. Inclusion of strong minority rights provisions in such regional standards could promote and require national attention to minority rights.

[11] See the Presidency report of the Council of the European Union (10665/11), Brussels, 26 May 2011.

[12] See the report of the Independent Expert on minority issues (A/HRC/4/9), sect. I, entitled "Minorities, poverty and the Millennium Development Goals: assessing global issues".

[13] See the addendum to the report of the Independent Expert of 2 February 2007, entitled "Achieving the Millennium Development Goals for minorities: a review of MDG country reports and poverty reduction strategies" (A/HRC/4/9/Add.1).

V. The importance of institutional attention to minority issues in conflict prevention and the protection of minorities

37. The prevention of mass atrocities, intergroup tensions and conflict, including when owing to violations of minority rights, is an important impetus for institutionalizing attention to minority issues, particularly where tensions or conflict exists or has previously occurred. The former Secretary-General, Kofi Annan, remarked that "[W]e must protect especially the rights of minorities, since they are genocide's most frequent targets".[14] The General Assembly in the preamble to the Declaration considered "that the promotion and protection of the rights of persons belonging to ... minorities contribute to the political and social stability of States in which they live". This statement was echoed by Heads of State and Government in paragraph 130 of the 2005 World Summit Outcome,[15] where they also committed themselves to the responsibility to protect populations from genocide, war crimes and ethnic cleansing (paras. 138 and 139), the importance of which is emphasized by the Independent Expert in relation to minorities at risk.

38. Institutionalizing expertise in minority rights before tensions arise enhances the potential to identify problems early and implement effective prevention measures. Under her mandate, the Independent Expert has noted[16] that among the essential elements of strategies to prevent conflicts involving minorities are: respect for minority rights; dialogue between minorities and majorities; and the constructive development of practices and institutional arrangements to accommodate diversity. In the Durban Declaration and Programme of Action adopted by the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, held in Durban, South Africa, from 31 August to 8 September 2001[17] States were urged to recognize that techniques, mechanisms, policies and programmes for reconciling conflicts based on factors related to race, colour, descent, language, religion, or national or ethnic origin and for developing harmonious multiracial and multicultural societies needed to be systematically considered and developed.

39. National institutions with minority rights expertise can facilitate arbitration, dialogue, national debate and activities to prevent and find solutions to ethnic or religion-based tensions. Independent bodies are particularly important when a minority group considers the Government to be the cause of its grievances or to be unresponsive to them, or in situations where an independent intermediary is needed to overcome lack of trust between conflicting groups. Under her mandate, the Independent Expert has noted that sustainable peace is highly dependent on the participation of all population groups in peace negotiations and resulting State institutional arrangements.[18]

40. The National Cohesion and Integration Commission of Kenya was created in 2008, following ethnically based election violence, to "facilitate and promote

[14] See Secretary-General's press release SG/SM/9126 Rev.1 of 11 February 2004.

[15] See General Assembly resolution 60/1 of 16 September 2005. Available from http://www.un.org/summit2005/documents.html/.

[16] See the report of the Independent Expert on minority issues (A/65/287), which focuses on the role of minority rights protection in conflict prevention.

[17] See A/CONF.189/12 and Corr.1, chap. I.

[18] See A/65/287.

equality of opportunity, good relations, harmony and peaceful coexistence between persons of different ethnic and racial backgrounds".[19] It advises the Government, and its activities address discrimination on ethnic grounds and seek to promote respect for religious, cultural and linguistic diversity. The Ethnic Relations Commission of Guyana was created following ethnic violence between Indian and Afro-Guyanese communities to monitor and improve ethnic relations and observe political activities. It held cross-country, multi-stakeholder forums prior to 2006 elections, recognizing that elections had become an ethnic and political flashpoint.

41. Where minorities face violence, the presence of local independent human rights bodies can be a deterrent and important monitoring mechanism. The Office of the Ombudsman of Colombia has a Division for Ethnic Minorities and undertakes activities to protect minority Afro-Colombian leaders and communities at risk or violence from illegal armed forces. Local representatives (*defensores comunitarios*) work in sensitive minority areas where the presence of State authorities is weak. They have developed the trust of communities and operate an early warning and risk assessment system (Sistema de Alerta Temprana) under which credible threats are identified and alerts are assessed by security forces and civil institutions, often resulting in protection measures.[20] The present Government has continued the policy of institutional attention to Afro-Colombian issues implemented by previous administrations in creating a Presidential Programme for Afro-Colombian Issues.

42. Developing internal minority rights expertise within such national institutions as the police and judiciary constitutes a positive practice, allowing such key protection and justice bodies to engage and consult more effectively with minority communities, ensure protection measures and respond appropriately to their issues, including incidents of violence. In the eleventh preambular paragraph of its resolution 66/144 of 22 March 2012, the General Assembly recognized that individuals belonging to vulnerable groups including minorities are the main victims of violence and of attacks perpetrated or incited by extremist political parties, movements and groups.

43. Community policing methodologies and measures to ensure that minorities are represented in the police can improve relations between minorities and the police. Good examples of initiatives whose aim is to try to encourage participation of minorities and to enhance effectiveness of law enforcement bodies are the National Black Police Associations in the United States of America, Canada, Bermuda and the United Kingdom of Great Britain and Northern Ireland and the Fraternal Association of European Roma Law Enforcement Officers.

VI. Essential elements of institutional attention to minority issues

A. Minority participation and representation

44. Minorities are often poorly represented in institutions, including human rights bodies and ministries working on central concerns of minorities. Improving minority

[19] See http://www.cohesion.or.ke/.

[20] See the report of the Independent Expert on minority issues on her mission to Colombia (1-12 February 2010) (A/HRC/16/45/Add.1).

representation and participation is a vital component of improving the quality of institutional attention to minority rights. As previously noted, political participation is both a right of minorities and essential to their achieving wider inclusion and participation in decision-making at the national and local levels; and consequently, Governments should both monitor the participation of minorities and implement mechanisms and institutional arrangements that ensure their representation in political and decision-making bodies at local and national levels.

45. A 2009 Office of the United Nations High Commissioner for Human Rights (OHCHR) global survey of national human rights institutions[21] revealed that minorities are poorly represented, with less than half rating their governing body as diverse. It also revealed that minorities are poorly represented as staff at all levels. Minority women are often particularly poorly represented and concrete measures should be taken, including outreach and training initiatives targeted at minorities and specifically at minority women. National institutions should lead by example and ensure that their staff and members fully and publicly reflect the diversity within society. They should be transparent and accountable in their processes to appoint senior representatives. Problems of legitimacy and community trust can result when appointments are considered to have been political or tokenistic and not to have involved minority communities or to have reflected their preferences.

46. Minority staff, including senior representatives and staff at all levels, bring crucial experience, expertise and community contacts and can significantly enhance institutional awareness and capacity on minority issues. They can raise attention to minority issues that may have been neglected, perhaps owing to lack of engagement with minority communities or knowledge of minority situations. They bring insight regarding how to interact with communities and address sensitive cultural or religious concerns, and can articulate the views and perspectives of minorities who would otherwise lack a voice. Minorities may be employed in specialist roles or sections; however, they should not be confined to such roles.

47. Minorities are often underrepresented in the civil service, police and judiciary owing to barriers including institutional racism, discriminatory recruitment practices, poor educational attainment, and psychosocial factors inhibiting them from seeking employment. Measures including targeted recruitment initiatives should be adopted and promoted in the public and private sectors. Minorities should be represented in oversight and regulatory bodies, for example, those relating to the police service. They can have important advisory roles relating to recruitment and policing practices and should be represented in complaints-handling bodies. Representation of minorities in national media and media regulatory and monitoring bodies helps to ensure appropriate treatment of minority issues by and in the media, which can portray minorities in discriminatory, negative or stereotypic ways.

B. Accessibility to and for minority communities

48. Disadvantaged minorities are often poorly placed with respect to accessing information and services. Poverty, socioeconomic disadvantages, remote localities, and education or language barriers are obstacles to obtaining services and engaging

[21] "Survey on national human rights institutions: report on the findings and recommendations of a questionnaire addressed to NHRIs worldwide" (Geneva, July 2009).

institutions. Some may have negative experiences of interactions with institutions which may not have met their expectations or addressed their concerns. Institutions should establish channels and processes of communication and consultation with minorities and build trust with minority communities. Efforts to raise awareness of the institution and services should target minorities and include advertising in and through minority media and in minority localities. Publications, information and services should be available in minority languages, including through dedicated websites.

49. Minority issues frequently exist in local or regional contexts. Local or sub-offices of human rights bodies can develop strong knowledge of localized minority rights issues, monitor evolving situations and build relationships with communities and authorities, and they are well placed to respond effectively to minority issues. Minority communities are more likely to engage with bodies in their localities, particularly those employing staff from minority communities who speak minority languages and maintain community contacts. Local offices assist in the mapping of minority communities and issues and help to ensure that local issues and concerns are reflected in regional- or national-level decision- and policymaking. Further, they can ensure that national policy and programmes reach and benefit minorities in remote regions.

50. The 2009 survey of national human rights institutions by the Office of the High Commissioner revealed that less than half of respondents described their relationship with marginalized groups as strong. In terms of online accessibility for minority groups, only 8 respondent institutions out of 61 indicated that their website was available in all minority languages. The large majority of respondents did not provide data relating to the proportion of complaints received from minorities or indigenous peoples, indicating that they did not gather disaggregated data relating to the use of services and lacked dedicated attention to such groups. Institutions should develop inclusive and participatory methodologies to ensure consultation with and participation of minorities in all relevant aspects of their work.

51. Outreach is essential to ensuring that potential beneficiaries are aware of institutions and their services. An EU-wide survey of 23,500 people from minority groups by the European Union Agency for Fundamental Rights, the Minorities and Discrimination Survey (EU-MIDIS), revealed that over one third of respondents who claimed to have been discriminated against on the grounds of their ethnicity did not know how or where to report their experiences.[22] Some 82 per cent of minority respondents who reported experiencing discrimination did not report their experience to any formal body.

C. Ensuring budget and resource allocation

52. Some concerns have been expressed that the establishment of dedicated institutions for minority-related issues or particular groups can be a means of, or result in, sidelining minority issues into parallel, inferior or poorly funded bodies rather than dealing with those issues within appropriate mainstream institutions and

[22] See European Union Agency for Fundamental Rights, "EU-MIDIS at a glance: introduction to the FRA's EU-wide discrimination survey", p. 9, figure 4; see also EU-MIDIS, Data in Focus report No. 3 on "rights awareness and equality bodies". See further http://fra.europa.eu/fraWebsite/attachments/NHR1_en.pdf.

processes. Where dedicated institutions or bodies are created, financial resources must be sufficient to enable them to conduct the full range of mandated activities; and separate budget lines should be provided and guaranteed. Where the mandates of existing human rights bodies are enlarged to incorporate minority issues, their capacity, resources and staffing should also be enhanced.

53. A recent trend towards integration of specialized minority and ethnic equality bodies into wider human rights institutions has been identified in the European context. Funding issues, rather than real or perceived lack of need, may contribute to decisions to abolish or merge institutions, particularly in the context of the current global financial crisis. However, economic conditions should not be considered a valid reason to reduce necessary attention to minority issues. Merger of institutions should not weaken the required institutional attention and resources dedicated to minority issues or limit their independence or the scope of their work.

54. While institutional attention to minority issues has financial implications, it can still be cost-effective, particularly where early implementation of minority rights helps to avert tensions among communities. Dedicated programmes can improve minority access to education, training and employment, with benefits to minorities and States resulting from the enhanced participation of minorities in economic life. Studies demonstrate the untapped economic potential within marginalized minorities and that integration is not only a moral and human rights obligation but an economic necessity.[23] Where financial constraints exist, low-cost measures include recruitment of minority experts and consultative methodologies, which can significantly strengthen institutional expertise.

VII. National institutional practices for the protection of minority rights

55. Governments have the primary responsibility for implementing minority rights. Establishing a Government body, agency, department or equivalent institution with dedicated attention to minority issues provides an institutional focus for government activities and offers the potential for proactive policy and programme initiatives and targeted approaches to the challenges involving minorities. It demonstrates governmental commitment to minority rights and should ensure that minority issues are consistently integrated into governmental policies and, essentially, mainstreamed throughout governmental bodies. Considered briefly below are some forms of institutional attention to minority issues adopted by Governments at the national level.

A. Ministries, government departments and related bodies

56. Some States have established dedicated governmental bodies, including ministries or Government departments, on minority issues. Such bodies often have primary responsibility for designing, directing and leading government policy on

[23] See the policy note entitled "Roma inclusion: an economic opportunity for Bulgaria, Czech Republic, Romania and Serbia" (World Bank, Human Development Sector Unit, 30 September 2010). Available from http://siteresources.worldbank.org/INTROMA/Resources/Policy_Note.pdf.

minority issues, but the Independent Expert emphasizes that they are most effective when working closely with other line ministries on minority issues and coordinating mainstreaming across ministries. Such dedicated institutional attention gives a strong signal to minorities and wider society that Government recognizes minority issues and takes them seriously. Some Government bodies or initiatives are given a particularly high public profile and status by placing them under high-level political leadership.

57. Government bodies may benefit from significant, secure funding allocated to State institutions. Relatively high levels of accountability are required of Government bodies regarding appointments to senior positions, annual reports, accounts, and analysis and monitoring of projects and their impact on minorities. They may face valuable scrutiny of their performance by media and civil society. One criticism of Governmental bodies is that they may face review or abolition following changes of political administration. Consequently, they will ideally exist alongside secure independent human rights institutions that also focus attention on minority issues.

58. Dedicated Government institutions may elaborate valuable mission statements and objectives providing important political messages on minority inclusion and equality, which may explicitly reflect challenges facing minorities. The Ministry of Minority Affairs of India is "empowering the minority communities and creating an enabling environment for strengthening the multiracial, multi-ethnic, multicultural, multilingual and multi-religious character of our nation", and its objective is "to improve the socioeconomic conditions of the minority communities through affirmative action and inclusive development".[24] Such public commitments provide a valuable opportunity for civil society engagement and advocacy.

59. Institutional approaches are particularly important that seek to ensure coordinated policy and programming initiatives incorporating all relevant ministries and other national stakeholders. They may develop and take the lead in implementing a national policy framework and devise cross-ministerial strategies and programmes in consultation with minorities and other stakeholders. Holistic, coordinated approaches recognize the interconnected nature of such issues and ministerial priorities such as health and housing, education and employment, and may facilitate policy and programming responses that comprehensively address problems facing minorities and their underlying causes.

60. The Government of Montenegro highlighted the fact that its Ministry for Minority Rights has a mandate to monitor, study and protect minority rights in accordance with the Constitution and international standards. Other ministries and government bodies are mandated to address issues of minority rights within their fields of responsibility, including the Ministries of Justice and Human Rights, Culture, Education and Sports, Internal Affairs, and Labour and Social Welfare.

61. Lithuania informed the Independent Expert of its Division for National Minorities Affairs in the Ministry of Culture. The post of Vice-Minister of culture for national minorities affairs was introduced in 2011, demonstrating the Government's special attention to national minority issues. A Council of National Minorities operates under the Ministry of Culture and plays a key role in consultation on minority issues with public authorities. Twenty-nine recognized national

[24] See http://www.minorityaffairs.gov.in/vision_mission.

communities are representatives in the Council, which analyses legal acts and makes recommendations concerning the preservation of national identity.

62. Bosnia and Herzegovina highlighted the existence of a department for the protection of the rights of, and cooperation with, national minorities and religious groups, which exists within the Ministry of Human Rights and Refugees. It employs national minorities; in this regard, Roma coordinators work in the Ministry and in four regional offices. A Department for Minorities also operates within the ombudsman's office. Councils of national minorities at the State level and within autonomous entities function to preserve and develop ethnic, national, religious and cultural identity and assist efforts to reintegrate communities.[25]

63. The Government of Brazil has established institutional attention to Afro-Brazilians in recognition of discrimination and the disproportionate socioeconomic disadvantage of Afro-descendants, including through its ministry dedicated to promoting policies for racial equality, the Secretaria de Políticas de Promoção da Igualdade Racial (SEPPIR).[26] A statute of racial equality (law 12.288), adopted in 2009, reinforces State obligations to guarantee equal opportunities to Afro-Brazilians. Affirmative action projects combat structural inequalities, in particular in respect of access to education, health and employment.

64. The National Council for Cooperation on Ethnic and Integration Issues of Bulgaria is headed by the Deputy Prime Minister. It coordinates State programmes and policies relating to ethnic minorities and monitors implementation of integration policies, in consultation with all relevant stakeholders. Non-governmental organizations representing minorities, including Roma, are members.[27] The High Commissioner for Immigration and Intercultural Dialogue of the Government of Portugal, within the Ministry of the Presidency of the Council of Ministries, has a specific mandate to address minority rights and a specialist office for support to Roma people.

65. The Committee for Ethnic Minority Affairs of Viet Nam is a ministerial-level body responsible for planning and implementation of ethnic policies and those for mountainous regions where minorities frequently live. It manages the development, implementation and monitoring of programmes, and coordinates liaison between ministries and with international agencies and donors. Its priorities include socioeconomic development programmes designed to address the causes of poverty, improving education and training local officials. It is part of an institutional structure including the Ethnic Council of the National Assembly, which advises the National Assembly on ethnic minority matters and reviews draft laws.

B. Autonomous arrangements and institutions

66. Some States take approaches that allow varying degrees of regional, territorial or political autonomy. Where minorities are geographically concentrated, decentralized

[25] The Independent Expert will conduct an official visit to Bosnia and Herzegovina in 2012 at the invitation of the Government.

[26] Statement to the 2010 Forum on Minority Issues on minorities and effective participation in economic life.

[27] See the report of the Independent Expert on minority issues on her mission to Bulgaria (4 to 11 July 2011) (A/HRC/19/56/Add.2 and Corr.1).

forms of government often allow minorities a stronger role in institutions and decision-making bodies. In appropriate circumstances, States have devolved power, and created autonomous or other sub-State divisions or federal systems that may enable minorities to have a more significant and direct impact on matters affecting them. The concept of "subsidiarity" promotes decision-making at the lowest level of government consistent with the goals to be attained and is highlighted as valuable in the context of minority rights, including in recommendations of the Forum on Minority Issues on minorities and effective political participation.

67. Forms of non-territorial or cultural autonomy can also serve to preserve elements of minority history, language and culture and may foster dialogue; they may involve establishing institutional arrangements such as local or minority self-governments. Local self-governments fulfil responsibilities in particular in the field of minority education and cultural self-administration, media, the fostering of traditions and cultural heritage, and social inclusion.

68. The Act on the Rights of Nationalities of Hungary of 2011[28] includes the right to establish "nationality self-governments" for recognized minorities, based on a system originally established in 1993. Self-governments provide an institutional framework for cultural autonomy, there being hundreds of self-governments at the local level with elected minority representatives. Similarly, Estonia indicated to the Independent Expert that ethnic minorities have the right to establish institutions of self-government in accordance with the National Minorities Cultural Autonomy Act, and that a Council of Ethnic Minorities exists within the framework of the Ministry of Culture.

C. Advisory and representative bodies

69. The commentary of the Working Group on Minorities of the former Commission on Human Rights to the United Nations Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities (E/CN.4/Sub.2/AC.5/2005/2) notes that "States should establish advisory or consultative bodies involving minorities within appropriate institutional frameworks. They should be attributed political weight and effectively consulted on issues affecting the minority population".[29] Advisory and consultative bodies can be permanent or ad hoc. They help to institutionalize dialogue between government and minority representatives and to ensure that minority issues are reflected in local and ideally national policy- and decision-making processes. Appropriate advisory and consultative bodies should therefore exist at the national level and at regional and local levels, where challenges affecting minorities frequently manifested themselves.

70. The Government of Latvia noted the existence of three national-level consultative bodies: the Consultative Council on Minorities, under the President; the National Minority Non-Governmental Organization Committee, under the Ministry of Culture; and the National Minority Education Consultative Council, under the Ministry of Education and Science. At the local government level, society integration commissions have broad minority participation. The Government of

[28] See the Act on the Rights of Nationalities of Hungary, paras. 113-115. Available from http://www.venice.coe.int/docs/2012/CDL-REF(2012)014-e.pdf.

[29] Available from http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G05/133/85/PDF/G0513385.pdf?OpenElement.

Georgia provided information on its institutions, including a Civil Integration and Tolerance Council, a Council on National Minorities set up to facilitate dialogue between Government and national minorities, and a Council of Religions, promoting dialogue, integration and participation of religious associations.

71. Permanent assemblies or political bodies can facilitate minority representation in national political structures. The members of the Assembly of the People of Kazakhstan represent 40 of the largest ethnic groups. The Government states that it revives and promotes ethnic cultures, languages and traditions; strengthens inter-ethnic unity and harmony through the monitoring of ethnic relations; and makes recommendations on State policy. Deputies in the lower house of the parliament are appointed from among the members of the Assembly. The House of Federation of Ethiopia, which is the upper house of the parliament, is composed of representatives of over 60 "nations, nationalities and peoples". It is intended to act as an assurance mechanism for the rights of ethnic groups, as established in the constitution. Such bodies must be based on principles of democratic accountability and electoral legitimacy.

D. Consultants and focal points

72. Institutions, including ministries, may decide to have dedicated advisers, consultant posts or focal points within their institutional structures that have responsibility for minority issues. While such posts provide relatively low-level institutional attention, compared with dedicated institutions or departments, they can nevertheless fulfil important functions, raise awareness of minority issues in key policy and programme areas, and demonstrate institutional will to respond to minority concerns. Where advisory posts or focal points exist in different ministries, they may have the potential to promote coordination and information-sharing and joint projects. Given the specialist nature of such roles, priority should be given to the recruitment of minorities, including minority women.

VIII. The role of independent national human rights institutions

73. National human rights institutions are independent, autonomous bodies created by law and should function in compliance with the principles relating to the status of national institutions (the Paris principles) (General Assembly resolution 48/134, annex). National human rights institutions include human rights commissions, ombudsman's offices, and specialized institutions designed to protect the rights of disadvantaged or vulnerable groups.[30] In 2005, the United Nations Working Group on Minorities of the former Commission on Human Rights noted that national human rights institutions can contribute significantly to the promotion and protection of the rights of minorities and that there is growing recognition of the contribution that these institutions can make to safeguard the rights of the less advantaged groups of society, in close partnership with them.[31] Nevertheless, frequently such institutions lack clear and proactive mandates for addressing minority issues.

[30] See "UNDP-OHCHR toolkit". Available from http://www.ohchr.org/Documents/Countries/NHRI/1950-UNDP-UHCHR-Toolkit-LR.pdf.

[31] See E/CN.4/Sub.2/AC.5/2005/3.

74. The Paris principles require bodies to address racial discrimination proactively, including by increasing public awareness through provision of information and education and by making use of all press organs. The Office of the United Nations High Commissioner for Human Rights and the United Nations Development Programme (UNDP) have highlighted the fact that in some States the rights of groups including minorities may be controversial and contested and that national human rights institutions "are frequently the only ones that can and do speak out in defence of those who have no voice, or whose influence is minimal".[32] They frequently provide vital critical assessments of Government policy and practice, including through reports to United Nations treaty bodies that provide non-governmental perspectives and substantive recommendations. With specialist minority expertise, they are well placed to advise Governments and critique their minority-related policy and practice.

75. Owing to financial factors, administrative and resource burdens and the importance of institutional identity, strong general human rights institutions are preferred by many States. However, the European Centre for Minority Issues states that "given the importance of minority issues to both the minority and the majority communities ... the appointment of an officer or establishment of a specialized department in the field of minority protection can only be welcomed".[33] In reality, departments or sections may work within less well defined policy and mandate frameworks than those of dedicated bodies, and may face staff and resource restrictions. Senior appointments, including such posts as deputy ombudsperson for minorities, could be regarded as maintaining appropriate high-level focus on minority issues.

76. Dedicated minority ombudsperson's offices, commissions or racial equality bodies, with clearly defined minority rights mandates, can create strong institutional identity and relatively high issue-visibility. Their mandates commonly demonstrate proactive, wide-ranging activities. The Ombudsman for Minorities of Finland, for example, works to advance the status and legal protection of ethnic minorities, as well as equality, non-discrimination and good ethnic relations.[34] Its activities include: providing guidance on ethnicity issues and information and training on ethnicity; influencing topical issues by participating in public debates; and issuing statements. It supervises compliance with the non-discrimination act, offers legal opinions and advice and undertakes reconciliation.

77. An important role of independent human rights bodies is in provision of complaint-handling services. Disadvantaged minorities may be reluctant to report incidents of discrimination or lack information or resources that enable them to make or pursue complaints. Specialist bodies frequently provide legal assistance and advisory services. They may offer alternative pathways, including mediation services that pursue solutions outside the courts and provide relatively quick, free and less formal access to remedies. However complaint-handling activities should include the ability to conduct investigations based on information or complaints received and to initiate or pursue legal action in the courts and/or refer cases to other appropriate bodies, including tribunals.

[32] See http://www.ohchr.org/Documents/Countries/NHRI/1950-UNDP-UHCHR-Toolkit-LR.pdf.

[33] See http://www.ecmi.de/uploads/tx_lfpubdb/Ombudsman_guide_English.pdf.

[34] See http://www.vahemmistovaltuutettu.fi/english.

78. European Union member States must set up equality bodies that address race and ethnicity in compliance with Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin. They are required to provide independent assistance to victims of discrimination on ethnic or religious grounds. They should also conduct independent surveys and publish reports and recommendations relating to discrimination.[35] Consequently, there is a relatively high number of dedicated equality institutions in Europe compared with other regions without such binding directives. Nevertheless, frequently, equality bodies focus primarily on non-discrimination and rarely give essential proactive and dedicated attention to minority issues.

79. National commissions exist in numerous countries and may be general bodies or address thematic or group specific issues. For example, the Government of Germany has established a model of minority commissioners who work to promote and ensure liaison between the Government and minorities. At the federal level, there is a commissioner for both national minorities and immigrants who reports to the Minister of the Interior. The Government of Slovenia highlighted its Commission for the Protection of the Roma Ethnic Community and its Commission for the Hungarian and Italian national minority communities, which have representatives from such minority groups.

80. Among other institutions of the Government of Austria, its Equal Treatment Commission is handling ethnic and religious discrimination cases, including those relating to employment and the workplace, and addressing such issues as access to employment, working conditions, harassment and freedom of religion. The Ombudsperson for Equal Treatment of Austria can intervene and negotiate with employers on discrimination cases and submit applications to the Commission. The Ombudsperson offers information on rights and equality, provides training and can impose penalties in cases of discrimination and harassment.

81. Besides its National Human Rights Commission, Nepal also has a National Dalit Commission, which was established in 2002 in recognition of the fact that caste discrimination and untouchability practices continue. It promotes implementation of national and international law and advocated for the Caste-based Discrimination and Untouchability Act, adopted in May 2011, which criminalized such discrimination in private and public spheres. Among its activities was the organization of a 100-day campaign against caste discrimination, in collaboration with the office of the United Nations High Commissioner for Human Rights in Nepal, launched in September 2011 by the President and the High Commissioner.

IX. Conclusions and recommendations

82. **The twentieth anniversary of the adoption of the Declaration provides an opportunity for States to consider practical measures for enhancing its implementation. Necessary efforts towards achieving positive and systematic change so as to ensure a culture and practice of minority rights and equality require political commitment and proactive approaches that are often lacking. While non-discrimination measures are essential, minority rights frequently**

[35] See http://www.equineteurope.org/564239.html.

require States to implement positive measures and approaches, as articulated in the Declaration, to ensure equality.

83. Positive change in the situations of disadvantaged minorities can be provided by appropriate institutional attention to minority rights and a policy and programme framework within which to address minority issues. Legislative protection of minority rights in national law is an essential foundation; and the logical next step, from legislation to concrete action for the protection and promotion of minority rights, is provided by institutional attention.

84. Institutional attention to minority issues is essential to changing the exclusionary practices and discriminatory perceptions about minority groups in wider society that may be institutionalized. Activities should therefore be focused not solely on minorities, but rather on all sectors of society. Coordinated institutional approaches should engage minorities, majority communities, and civil society as key stakeholders. Institutional measures should serve to mainstream minority issues within all relevant institutions and promote diversity and equality in all areas of public life.

85. When they have easy access to institutions providing channels of complaint and remedy, including in their own languages, minorities are more likely to engage such bodies, and bring complaints of discrimination, which too often go unreported and unchallenged. Institutional attention to minority issues conveys a positive message to minorities, namely, that government recognizes their issues and concerns, and is committed to finding solutions to challenges involving minorities; and it also helps to instil confidence within communities. This may be particularly important in times of political and social upheaval, or administrative or regime change, or following conflict involving or impacting upon minorities.

86. The full and effective participation of minorities is fundamental to the realization of minority rights and a key objective of national institutional attention to minorities. Effective attention can be achieved only with the participation of minorities, both as staff and as partners in the work of institutions addressing minority issues. It should always be remembered that minorities are members of society and should have their full say on issues involving all aspects of society, and not only on those issues of particular minority concern. In cases where they do not have that say, institutional attention to minority rights and minority issues is a means of enhancing their participation in all aspects of the economic, social and political life and development of their countries.

87. There are no one-size-fits-all solutions and the most appropriate approaches to minority protection depend on national circumstances, and the situations of minority groups, as well as cultural, geographical, historical, political and socioeconomic factors. Whatever approach is taken, the principles of recognition of minorities, and of consultation with and effective participation of minorities should be fully complied with.

Recommendations

88. **The Declaration and other relevant international and regional minority rights standards should be incorporated into domestic law, thereby providing a strong legal basis for institution-building and strengthening in the area of minority rights.**

89. **States should consider specialist national institutions mandated to address minority issues, including dedicated departments, sections or focal points within national institutional frameworks and national human rights institutions. Permanent and ad hoc consultative and advisory bodies addressing minority issues should be considered.**

90. **Expertise on minority issues should be mainstreamed into the mandates of all relevant ministries and governmental organs and national human rights institutions. Those particularly relevant to minority concerns, including in the fields of education, employment, health, housing and culture, should collaborate in the development of joint initiatives and programmes targeted towards disadvantaged minorities.**

91. **National statistical agencies and other relevant government bodies and departments should be mandated to engage in the collection of disaggregated data, as a good practice in the field of minority issues, and develop internal expertise on minority issues, and on data collection and analysis methodologies relevant to ethnicity, religion and language.**

92. **Institutions mandated to address minority issues should be adequately funded, resourced and staffed to enable them to fulfil their mandates effectively and to respond appropriately to the challenges, requests and needs of minorities.**

93. **Institutions working on minority issues must be transparent and accountable to minorities, including with regard to processes for electing or appointing senior representatives and staff and their methods of work and activities.**

94. **Institutional practices and methodologies should be adopted and promoted to ensure the full and effective representation of minorities in institutions and the participation of and consultation with minorities in all aspects of institutional work.**

95. **Awareness-raising activities should promote knowledge of specialized minority rights and equality bodies or departments or relevant agencies, and of their services. Outreach should be targeted towards minority communities, including through minority media, and in minority localities. Information and services should be provided in minority languages.**

96. **Governmental and independent national human rights institutions should lead by example and ensure that their governing bodies and staff, including at senior levels, reflect the diversity within society, and ensure as well the representation of minority women. Diversity in public and private sectors should be promoted and monitored.**

97. **Institutions or departments working on women's issues should establish specialist units or focal points for minority women and girls so as to ensure adequate attention to their issues and should recruit minority women.**

98. **Regional or local sub-offices of human rights institutions and other relevant bodies should be considered, including in areas with concentrated minority communities and in localities where communities may face particular challenges, including violence, conflict or displacement.**

99. **Recent examples of interreligious tensions and violence demonstrate the need for dedicated institutional attention to religious minorities and interfaith dialogue. Efforts to improve understanding and build positive relationships between faith groups should engage religious leaders, institutions and communities from all faith groups.**

100. **International bodies with a national presence, including United Nations bodies and specialized agencies, should consider institutional strengthening so as to ensure required expertise and attention to minority issues and should employ staff from minorities, where appropriate.**